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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,679	01/08/2002	Rita Lorena Salazar-Leal	214314US30	9035

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1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,679

Applicant(s)

SALAZAR-LEAL, RITA LORENA

Examiner

James N Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-9, 11, 13-14 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo '989 in view of Kamata et al. '697 and in view of Vagedes '581.

Russo '989 discloses a Coffee Cup with Temperature Indication, comprising:

a beverage container having an opening through which a beverage in the container can be dispensed from the container; and

A cap adapted to be removably secured to the container to cover the opening, wherein a material comprising the cap comprises at least one thermochromic material (see paragraph [0024], wherein it is disclosed the lid may be made of a thermochromic material.)

Russo '989 does not disclose the lid being formed of a thermochromic material in admixture with at least one thermoplastic polymer resin, the thermochromic material selected such that the cap has a visually altered appearance when the cap temperature changes within a temperature range of -25 to 85 °C.

Kamata et al. '697 discloses a Reversibly Variable Color Patterning Composition for Synthetic Resin Articles, comprising an admixed polymer and a thermochromic material. It is disclosed in col. 1, lines 44-48, that the object of the invention is to provide reversibly color changing synthetic resin articles. For instance, in Example 2, in col. 9, it is disclosed a

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polypropylene resin was formed with admixed (microencapsulated) thermochromic material, which changed colors at 10 °C.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the lid of Russo '989 from the thermochromic synthetic resin disclosed by Kamata et al. '697 so as to obtain the benefit of visible color change to indicate the beverage in the container has exceeded a temperature threshold.

Further, Russo '989 does not disclose at least one non-thermochromic printing ink layer on at least a portion of an outer surface thereof.

Vagedes '581 discloses a Spill-Resistant Drinking Vessel with Indicia, disclosing print letters (5) on the top surface of the lid. Although the print letters are disclosed as the alphabet, one having ordinary skill could print letters to spell a word or message.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid of Russo '989, to provide it with the print indicia disclosed by Vagedes '581, so as to obtain the benefit of a message disclosed on the top surface of the container lid.

Russo '989, as modified, reads on the limitations of claims 2-4 and 6.

Regarding claim 7, the teachings of Kamata et al. '697 disclose, in col. 3, lines 24-26, that linear, low, or high density polyethylene may be used as a base resin for the composition.

Russo '989, as modified, further reads on claims 8-9 and 11.

Regarding claim 13, the lid is applied to the container, as can be seen in the figure.

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Regarding claim 14, Examiner notes the lid of Russo '989 only functions once a beverage has been placed in the container. It is inherent that, because there are no openings visible, the beverage must be placed in the container before the lid is applied.

Regarding claim 19, Kamata et al. '697 disclose in col. 6, line 62, that the ratio of thermochromic material to polymer is 0.1 to 40 parts by weight per 100 parts by weight of the polymer.

Regarding claim 20, Kamata et al. '697 disclose in col. 6, line 22, that the polymer material may comprise a surfactant.

3. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo '989, as applied above to claim 1 '989 in view of Kamata et al. '697 and in view of Vagedes '581, under 35 USC 103(a), and in further view of Mueller '312.

Russo '989 does not disclose the lid comprising more than one piece, or that the lid provides a hermetic seal.

Mueller '312 discloses a Closure for a Liquid Container, comprising drinking hole (80) and stopper (100) for selectively closing off the drinking hole, on a container lid.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid of Russo '989, to provide it with the drinking hole and stopper disclosed by Mueller '312, so as to obtain the benefit of a drinking hole, and being able to selectively close the drinking hole to prevent spillage.

Examiner notes the addition of the stopper comprises the "more than one" piece. Further, by closing off the entire lid, a hermetic seal is created, since there are no apertures in the lid.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2003/0080550

US 5,786,578

US 2003/0019954

US 4,111,322

US 2002/0149003

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N Smalley whose telephone number is (703) 605-4670. The examiner can normally be reached on M-Th 8-5:30, Alternate Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408

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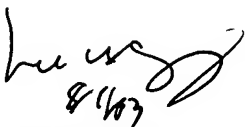
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If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line
Internet PTO-Home Page

1-800-786-9199
<http://www.uspto.gov/>

jns
August 7, 2003


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TECHNOLOGY CENTER 3700